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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Atty Dkt. 2380-589

C# M#

RUNE et al

TC/A.U.

2681

Serial No. 10/022,830

Examiner: Nguyen, D.

Filed: December 20, 2001

Date: October 20, 2005

Title: CONTROLLING TRANSMISSION OF CELL INFORMATION BETWEEN CONTROL NODES IN RADIO ACCESS NETWORK

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE/AMENDMENT/LETTER**

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

☐ **Correspondence Address Indication Form Attached.**

**Fees are attached as calculated below:**

Total effective claims after amendment 50 minus highest number  
previously paid for 52 (at least 20) = 0 x \$50.00 \$0.00 (1202)/\$0.00 (2202) \$

Independent claims after amendment 8 minus highest number  
previously paid for 8 (at least 3) = 0 x \$200.00 \$0.00 (1201)/\$0.00 (2201) \$

If proper multiple dependent claims now added for first time, (ignore improper); add  
\$360.00 (1051)/\$180.00 (2051) \$

Petition is hereby made to extend the current due date so as to cover the filing date of this  
paper and attachment(s)  
One Month Extension \$120.00 (1251)/\$60.00 (2251)  
Two Month Extensions \$450.00 (1252)/\$225.00 (2252)  
Three Month Extensions \$1020.00 (1253)/\$510.00 (2253)  
Four Month Extensions \$1590.00 (1254)/\$795.00 (2254) \$

Terminal disclaimer enclosed, add \$130.00 (1814)/\$65.00 (2814) \$

☐ Applicant claims "small entity" status. ☐ Statement filed herewith

Rule 56 Information Disclosure Statement Filing Fee \$180.00 (1806) \$

Assignment Recording Fee \$40.00 (8021) \$

Other: \$

**TOTAL FEE ENCLOSED \$ 0.00**

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

901 North Glebe Road, 11th Floor  
Arlington, Virginia 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100  
HWB:ish

NIXON & VANDERHYTE P.C.  
By Atty: H. Warren Burnam, Jr., Reg. No. 29,366

Signature:



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Patent Application of

RUNE et al

Atty. Ref.: 2380-589

Serial No. 10/022,830

Group: 2681

Filed: December 20, 2001

Examiner: Nguyen, D.

For: Controlling Transmission of Cell Information Between Control  
Nodes In Radio Access Network

\* \* \* \* \*

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**ELECTION UNDER 35 USC §121**

In response to the Office Action dated September 20, 2005 holding the subject matter of claims 2, 4, 6, 7, 10, 12, 14-16, 29, 31-33, 36, 38, 40-42 and 51-52; claims 5, 11, 30, 37 and 53-64; or claims 18-26 and 44-50 to be non-obvious and patentably distinct from that of each other, Applicant(s) hereby elect the invention of Group I, (upon which claims 2, 4, 6, 7, 10, 12, 14-16, 29, 31-33, 36, 38, 40-42 and 51-52 are readable) for further substantive examination.

This election is made **with traverse**. Two substantive office actions on the merits have preceded the mailing of the September 20, 2005 restriction requirement. Those office actions were dated September 20, 2004 and March 16, 2005. Both substantive office actions required prior art searching and examination as evidenced by the prior art rejections formulated therein. In response to the March 16, 2005 Office Action, applicants implemented amendments designed to render all claims allowable in view of the indications of allowable subject matter in the March 16, 2005 Office Action. Applicants believe that they should have received a Notice of Allowance rather than a three-way restriction requirement.

The undersigned further notes that on July 21, 2005 and September 13, 2005 the Examiner telephoned the undersigned to obtain a telephonic election. The Examiner has twice before been advised that Applicant would not telephonically elect and would traverse this restriction requirement as being improperly timed.

**Applicants do indeed submit that the timing of the restriction is improper.** While Applicants acknowledge that restriction requirements can be made at any time before final action, MPEP § 811 clearly indicates that an examiner should make a proper

requirement as early as possible in the prosecution, in the first action if possible, otherwise, as soon as the need for a proper requirement develops. In any event, according to MPEP §811, before making a restriction requirement after the first action on the merits, the examiner will consider whether there will be a serious burden if restriction is not required.

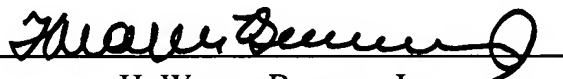
In the present case there is manifestly NO serious burden by not requiring restriction at this time, especially since the prior art search and examination on the merits have already been conducted to such a point that allowable subject matter has been indicated and claims conformed thereto.

It is respectfully requested that the non-elected claims be retained for future further possible use.

Respectfully submitted,  
NIXON & VANDERHYE P.C.

October 20, 2005

By: \_\_\_\_\_



H. Warren Burnam, Jr.

Reg. No. 29,366

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